MUNICIPAL CORPORATIONS — LEGISLATIVE CONTROL — PROVISION FOR ENACTMENT OF ORDINANCES. — A city charter provided that all ordinances must be read three times to the board of aldermen before final passage. An ordinance was twice read before the board as constituted, but the final reading took place before a board organized after election, one half of its members being newly elected. *Held*, that the ordinance is invalid. *Paterson, etc., R. R. Co.* v. *Mayor, etc., of Paterson*, 68 Atl. 76 (N. J.).

Statutes very generally provide that an ordinance shall be read three times before final enactment. By the better opinion such restriction in the city charter is mandatory, not directory, and unless it is waived in some manner provided by the charter, an ordinance passed without the required readings is invalid. *Swindell* v. *State*, 143 Ind. 153. The cases opposed consider the requirement a parliamentary rule open to modification or waiver by the council. *Aurora Water Co.* v. *City of Aurora*, 129 Mo. 540. The legislative intent inferable from this requirement is obviously that the readings shall take place before a council with membership unchanged by a general election. Analogy to other legislative bodies and the apparent purpose to prevent ill-considered legislation lead to this conclusion. It is true that for certain administrative purposes and in its general business the demand is clearly for a continuity of action unbroken by election and change of membership. *Booth* v. *Bayonne*, 56 N. J. L. 268. But for strictly legislative purposes the continuity of such a body is broken by a general election. Thus, the present decision seems sound on principle, though the other authorities found on this point give the opposite construction to the requirement. *Smith* v. *Columbus, etc., Ry.*, 8 Oh. N. P. 1; *McGraw* v. *Whitson*, 69 Ia. 348.

POLICE POWER — REGULATION OF PROPERTY AND USE THEREOF — SLEEPING-CAR BERTHS. — A statute provided that the upper berth when unoccupied should be closed if the occupant of the lower berth so requested. *Held*, that the statute is unconstitutional. *State* v. *Redmon*, 114 N. W. 137 (Wis.).

Unless a valid exercise of the police power, the statute in question seems an unconstitutional regulation of the use of property. The legislature is ordinarily the proper judge of the necessity for health or other police regulation, and only when there exists no possible justification for a legislative act can the courts declare it unconstitutional. *People* v. *Smith*, 108 Mich. 527. But a statute showing on its face that it has no reasonable connection with the permissible objects of protection under the police power is unconstitutional, although purporting to be based on that power. Acts which it is sought to justify thereunder must be beneficial to the public generally, and the means must be reasonably necessary for the accomplishment of the purpose. *Lawton* v. *Steele*, 152 U. S. 133. A statute allowing only one berth in a section might well be upheld, but the protection of the health of the community is clearly not the purpose of legislation affording the lower berth better ventilation only upon the double contingency of the upper berth being unsold and the occupant of the lower requesting that it be closed. *Cf. Chicago* v. *Netcher*, 183 Ill. 104.

SPECIFIC PERFORMANCE — DEFENSES — PENDING ACTION OF EJECTMENT. — A agreed to sell land to B, and B paid part of the purchase price. Before conveyance C brought ejectment against A. Then B filed a bill for specific performance. The court below decreed that A, if successful in the ejectment suit, should convey the land to B on payment of the balance of the purchase price within twenty days after termination of that suit. *Held*, that the decree is improper. *Rosenberg* v. *Haggerty*, 189 N. Y. 481.

The discretionary power of a court to grant or refuse specific performance of a contract must be exercised not arbitrarily or capriciously, but reasonably with a view to justice under the circumstances of the particular case. *Quinn* v. *Roath*, 37 Conn. 16. Since the court assumes that time is not of the essence of this contract, if a bill were brought after the termination of the ejectment suit, the court might grant specific performance, though several